IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.564 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

Homi Mehta & Sons P.Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 28TH MARCH, 2005.

P.C. :-

1. In this reference, the questions referred for the opinion of this Court read as under :-

> "1. Whether, on the facts and in the circumstances of the case, the provisions of section 40(c) or section 40A(5) of the Income-tax Act, 1961, would be applicable in working out disallowance out of salary / perquisite paid to the employee-directors ?

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)